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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,171	09/20/2005	Hugo Schweitzer	113999-144196	5246

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EXAMINER	
JOHNSON, BLAIR M	

ART UNIT	PAPER NUMBER
3634	

MAIL DATE	DELIVERY MODE
04/28/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/550,171	SCHWEITZER, HUGO	
	Examiner	Art Unit	
	Blair M. Johnson	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 April 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *38,41-54 and 56-59* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *38,41-54 and 56-59* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 38,41-46,48,49,54 and 56-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hying et al (5,141,044) in view of Iseli et al (4,519,474).

Hying et al discloses a roller door having a closing element 14 and a safety edge 20,21, of known structure and operation, column 2, line 64- column 3, line 1, of which a photoelectric device is an obvious choice. What is not shown is the reinforcing spring. However, Iseli et al discloses a elastic door edge sensor that has such a reinforcing member 9, Figs. 3 and 4. It would have been obvious to provide one or more such reinforcing elements to the safety edge 21 of Hying so as to stabilize the edge. The relative locations of the leaf springs and safety device is considered to an obvious design choice determined by particular application, size constraints, etc. The particular crossectional shape of the spring would have been an obvious design choice determined by the desired strength, size constraints, etc. The manner in which the stabilizing element is attached to the closure is clearly an obvious design choice and glue and/or screws would have been well known expedients.

Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hying et al in view of Iseli et al as applied above, and further in view of Strand (5,399,851).

Strand provides additional sealing lips that would have been an obvious addition to Hying et al so as to further seal the bottom of the door.

Claims 50-53 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hying et al in view of Iseli et al as applied above, and further in view of Clark (3,292,685).

Providing bristle sealing/aligning means in a track for a roller closure is well known, as illustrated by Clark and it would have been obvious to provide such for Hying et al so as to both center the closure and to seal the edges. Regarding claim 59, since the upper edges of the channel are vertically offset, the distance from one upper edge to the other, opposing, upper edge is greater than the width of the channel.

Response to Arguments

Applicant's arguments have been fully considered.

The rejection under 35 USC 112 has been overcome.

Applicant asserts that Hying does not provide "lateral contact surfaces". However, element 21 clearly has lateral surfaces that are capable of, and frequently are, contacted by objects. Furthermore, this "elastically deformable stabilizing element" is "coupled to … one lower edge of a closing element", such closing element being either 20 or 14 or both.

Iseli et al clearly states that he provides a leaf spring for reinforcement purposes, and that the leading edge is further located on a larger structure 10 made of foam. While Applicant states that Iseli et al does not provide reinforcement from lateral deformation, it is clearly capable of such and it further is subject to such deformation

due to it's location in a foam member 10. Clearly, Iseli et al operates as presently disclosed. Iseli et al further teaches the location of the sensor as being in the elastic, leading edge. Regarding claim 45 et al, as pointed out above, Hying specifically states that element 21 is a safety edge of known type which clearly means one that stops movement of the door and/or reverses movement thereof. It is further noted that Iseli et al teaches the same thing, which has not been addressed by Applicant. Regarding claim 54, it is noted that the drawing figures to not show such relative dimensions. Nonetheless, such is considered an obvious design choice motivated by desired strength, track size, etc., as maintained above. It is further noted that Iseli et al shows such relative dimensions in Fig. 4.1

Regarding Clark, the intake system, which includes 139, is located on the upper end of the channel, which clearly meets the claimed structure as recited. Also, the diagonal distance between the upper ends of the sealing brushes clearly do define, contrary to Applicant's assertions, a width. It is further noted that the presently disclosed features provide no structure wherein the intake element and channel are attached, rendering criticism of the intake element and channel arrangement of Clark moot. Further, Applicant recites "separate" intake and guide systems. However, such is clearly broad and easily met by Clark as presented above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blair M. Johnson whose telephone number is (571) 272-6830. The examiner can normally be reached on Mon.-Fri., 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on (571) 272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Blair M. Johnson/
Primary Examiner, Art Unit 3634

BMJ
4/24/09